F.O. 881/7713

(7713.)

S 329 1329

EAST AFRICA PROTECTORATE.

NOTICE.

THE following Regulations made by His Majesty's Commissioner, and allowed by the Secretary of State, are published for general information.

C. ELIOT,
His Majesty's Commissioner.

Mombasa, April 12, 1902.

KING'S REGULATIONS UNDER ARTICLE 46 OF "THE EAST AFRICA ORDER IN COUNCIL, 1897," AND ARTICLE 11 OF "THE EAST AFRICA ORDER IN COUNCIL, 1899."

No. 12 of 1902.

Prisons.

1. These Regulations shall apply to the prison at Mombasa, and to every other prison which may be established in the Protectorate under the authority of the Commissioner.

Prison Staff.

2.—(*a.*) Every prison shall be under the control and management of the following officers, that is to say, a Superintendent and a gaoler.

(*b.*) The Commissioner may, in the case of any prison, appoint also a Deputy Superintendent, who shall, in the absence of the Superintendent, exercise his powers and duties.

3. Where necessary, a jemadar shall be appointed to assist the gaoler; and there shall be in and for every prison as many warders as may be required, so that, so far as practicable, there shall be at least one warder for every four prisoners.

4. The Superintendent and Deputy Superintendent (if any) shall be appointed and may be removed by the Commissioner; the gaoler, and warders shall be appointed and may be removed by the Superintendent, subject to the approval of the Commissioner.

Matron.

5.—(*a.*) In every prison in which female prisoners are imprisoned there shall be a Matron, who shall have the care and superintendence of the female department, and enforce upon the female prisoners the observance of the prison Rules. The wards where females are confined shall, if practicable, be secured by locks different from those securing the wards allotted to males, and the keys shall be kept in custody of the Matron.

(*b.*) With regard to general conduct, the Matron shall conform to the Rules laid down for that of the gaoler, so far as they can be applied to the treatment of females.

Duties of Officers.

6.—(*a.*) It is the duty of all prison officers to obey strictly the Regulations and instructions which are here laid down for their guidance, and those which may be added hereafter.

(*b.*) It is, further, their duty to maintain order and to enforce discipline with justice, firmness, and humanity.

7.—(*a.*) No prison officer shall have any interest, direct or indirect, in any Contract for the supply of the prison.

(*b.*) No prison officer shall receive any fee or gratuity, or have any business dealings with the prisoners or with the friends of the prisoners, or with the visitors to the prison.

8. Prison officers shall not use their arms except when absolutely necessary, and then so as to disable, not to kill; and no prison officer shall strike a prisoner except for purposes of defence.

9. Complaints can be made once a-week during inspection to the Visiting Justice, but should a prison officer receive a serious complaint, he must report the same at once to the Superintendent.

10. No officer shall enter a prisoner's cell at night unless accompanied by another, and then only in case of sickness or emergency.

Superintendent.

11. Subject to the orders of the Commissioner, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

Gaoler.

12. The gaoler is the principal resident officer of the prison. He shall live at the prison, and shall not be absent for a night without the leave of the Superintendent.

13. The gaoler shall be responsible, under the Superintendent, for the conduct and treatment of subordinate officers and prisoners. He is expected to enforce due economy in connection with the prison, signing all demands for stores, and to insist upon cleanliness and order in the building and among its inmates.

14. The gaoler shall not be concerned in any other employment.

15. The gaoler shall be responsible for the safe custody of the records, the commitment warrants, and all other documents confided to his care, and for the money and other articles taken from prisoners.

16.—(*a.*) The gaoler shall keep the following records :—

(1.) Admission Register.
(2.) Discharge Register.
(3.) Lock-up Register.
(4.) Labour Distribution.
(5.) Remission Register.
(6.) Sick Report.
(7.) Ration Register.
(8.) Weighment Book.
(9.) Out-turn of Tailor's Work.
(10.) Stock Book.
(11.) Cash Book.
(12.) Prison Staff.
(13.) Order Book.
(14.) Indents:
(15.) Supply Book.
(16.) Punishment Book.
(17.) Fuel Supply.
(18.) Visitor's Book.
(19.) Inventory of private clothes.

(*b.*) This list of records may from time to time be altered or varied with the approval of the Commissioner.

17. In the absence of the gaoler, his duties and authority shall devolve upon the jemadar.

18. The gaoler shall hand to the Medical Officer daily a list of those prisoners who are ill, or who complain of illness, or who appear to him to require attention in mind or body, and he shall carry into effect whatever instructions may be given to him by the Medical Officer in relation to such prisoners. Cases of sudden illness shall be reported to the Medical Officer without delay.

19. The gaoler shall see every prisoner once at least in every twenty-four hours. He shall once a week go through the prison at an uncertain hour of the night. He shall test the prisoner's rations, hear and report their complaints, giving them all reasonable facilities for stating their grievances personally to the Superintendent or the Visiting Justices, and he shall be specially careful of those who are in solitary confinement.

20. Upon the death of a prisoner, the gaoler shall give immediate notice to the Superintendent and Medical Officer.

21. He shall be responsible for the due discharge of all prisoners immediately upon their becoming entitled to release, whether by the expiration of their terms of sentence, or by pardon, or by commutation, or by remissions of sentence.

Jemadar.

22. It shall be the duty of the jemadar to insure that the instructions of the gaoler are duly carried out; and in the gaoler's absence he shall be his deputy. He is expected to superintend the details of the prison management, to see that the warders know and perform their duties, to exercise general supervision over the labour of the prisoners inside the prison, their meals and clothing, to generally supervise the internal economy of the prison, and to see that punishments are carried out in accordance with instructions.

Warders.

23. No warder shall be absent from the prison during his guard without the permission of the gaoler or jemadar.

24. No warder shall be given charge of more than five prisoners as a working party outside of the gaol. He shall count the prisoners at frequent intervals, especially in taking over charge or giving over charge, and on leaving any building or work.

25. No warder shall punish a prisoner unless when ordered to do so.

26. The warder acting as gate-keeper, or any officer of the prison, may examine anything carried in or out of prison, and may stop and search, or cause to be searched, any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and if any such article or property be found shall give immediate notice thereof to the gaoler.

Visits to Prisoners.

27. Convicted prisoners shall be allowed once in every three months to receive a visit from friends, in the presence of an officer, to write and receive a letter. No other visits or communications, save under the next following Regulation, shall be permitted except by an order in writing from one of the Visiting Justices, and in no case shall a prisoner under punishment for any offence committed within the prison or in close confinement under the sentence of any Court be permitted to receive any visit or communication, except on special grounds stated in the order.

28. If a prisoner, dangerously sick, desires to be visited by any near relation or friend, the Medical Officer may give an order in writing for the admission of such relation or friend if he considers it advisable.

29. All prisoners other than prisoners under sentence shall be given all reasonable opportunities, daily, of communicating with their friends or legal adviser, and they may write or receive letters. Prisoners under trial shall be allowed to see their duly qualified legal advisers in private, so far as possible, so that they cannot be overheard.

Labour.

30. Prisoners sentenced to hard labour shall be employed on the construction of roads, buildings, scavenging, municipal sanitation, chopping fire-wood, or such other work as the Superintendent may direct, with the approval of the Commissioner.

31. Prisoners sentenced to simple imprisonment must not leave the prison, but shall be given light employment within the walls, such as tailoring, cooking, or drawing water.

32. Female prisoners shall not be employed outside the prison, except on the recommendation of the Medical Officer, and then only on such labour as is suitable for women.

33. Cells will be opened at 5·30 A.M. each morning, and after food labour gangs will be distributed for work at 6·30 A.M. There will be one hour's rest from 11 A.M. to 12 noon for food. Gangs working at a distance from the prison will have their food brought to them, and will return to the prison not later than 4 P.M. Cells will be locked for the night at 6 P.M. after all the prisoners have been called over by the gaoler and the jemadar. Unless under exceptional circumstances, Sunday will be observed as a day of rest.

34. All prison labour outside the gaol shall be under the supervision of the Superintendent of Public Works, unless the Commissioner otherwise directs. Employment of prisoners may be arranged for with consent of the Commissioner on such terms as he may think fit.

Prisoners awaiting Trial.

35. Prisoners awaiting trial, and all others committed for safe custody only, shall in no case be confined in association with convicted criminals.

36. They will not be required to do any labour other than such as is required to keep their rooms, furniture, and utensils clean, and they will be allowed to have this work done for them at their own expense. Employment may be given to them at their own request.

Medical Officer.

37. The Medical Officer or his assistant shall advise, whenever necessary, on the sanitary condition of the prison. The Medical Officer shall make a complete inspection of the prison at least once every quarter.

38. He or his assistant shall visit the prison daily. He shall examine every prisoner on admission and prior to discharge. He shall from time to time inspect the prisoners while at hard labour. He shall examine daily every prisoner in solitary confinement or hospital, or reported to him by the gaoler as being sick, and he shall give such orders as he may consider desirable in regard to modifications of labour, diet, and punishment.

39. He shall enter in a journal, kept for the purpose, his comments on the cases sent to him for treatment.

40. He shall examine every prisoner sentenced to corporal punishment prior to its being inflicted, and shall be present while it is being carried out.

Ministers of Religion.

41. The Minister of the denomination to which a prisoner belongs shall be invited to visit the prison if any prisoner so desires it.

Visiting Justices.

42.—(*a.*) There shall be Visiting Justices of every prison.

(*b.*) The following are *ex officio* Visiting Justices of every prison in the Protectorate, namely, the Protectorate Judge, the Assistant Judge, and the Commandant of the Forces.

(*c.*) The Sub-Commissioner of the province, and the Collector and Assistant Collector of the district, in which a prison is situate, shall be *ex officio* Visiting Justices of that prison.

(*d.*) The Commissioner may appoint such other persons, not exceeding five, to be Visiting Justices of any prison.

(*e.*) Some one Visiting Justice shall visit the prison not less than once a-week, and who shall record their visits, with remarks, in a book kept for the purpose.

(*f.*) Every Visiting Justice shall for the purposes of these Regulations have power to summon witnesses and to administer oaths.

Diet and Dietary Scale.

43. The prisoners' food must be sufficient in quantity, and wholesome in quality, suitable for men living and working in confinement. In no case must hard work and low diet be combined, and in all cases food should be given before the day's work begins.

44. The quality and quantity of the rations shall frequently be tested by the Superintendent or the gaoler, and the prisoners shall be allowed, if they wish to do so, to see their rations weighed for themselves.

45. The following scale of diet is to be observed, but may be varied in the case of any prison by the Superintendent :—

Dietary of Prisoners.

1. Scale of dietary for Europeans :—

6 A.M. Tea, $\frac{1}{4}$ oz.
Bread, 8 oz.
Sugar, 3 oz.

12 NOON. Meat, 6 oz.
Fresh vegetables, 4 oz.
Bread, 4 oz.
Ghee, 1 oz
Salt, $\frac{1}{4}$ oz.

6 P.M. Meat, 6 oz.
Fresh vegetables, 4 oz.
Bread, 4 oz.
Ghee, 1 oz.
Salt, $\frac{1}{4}$ oz.

2. Dietary for Swahilis and Nubians during the first three months of their imprisonment :—

6 A.M. Uji of Mtama, 3 oz.

12 NOON. Mtama, 10 oz.
Dhall, 3 oz.
Sim Sim oil, 1 oz.
Onions, $\frac{1}{2}$ oz.
Salt, $\frac{1}{2}$ oz.
Condiment, $\frac{1}{8}$ oz.

5 P.M. Mtama, 12 oz.
Meat, 4 oz
Fresh vegetables, 2 oz.
Sim Sim oil, 1 oz.
Onions, $\frac{1}{2}$ oz.
Salt, $\frac{1}{3}$ oz.
Condiment, $\frac{1}{8}$ oz.

3. Dietary for Swahilis and Nubians after the first three months of their imprisonment :—

The same as the foregoing, except that instead of 3 oz. of dhall, they have 4 oz., and on Mondays and Fridays, instead of mtama at 12 A.M., they receive 10 oz. of rice and 2 oz. of salt fish.

4. Dietary for Indians and Arabs for the first three months of their imprisonment :—

6 A.M. One chopatti, made of 4 oz. of atta flour.

12 NOON. Rice, 8 oz.
Dhall, 3 oz.
Sim Sim oil, 1 oz.
Onions, $\frac{1}{2}$ oz.
Salt, $\frac{1}{2}$ oz.
Condiment, $\frac{1}{8}$ oz.

5 P.M. Two chopattis, made of 8 oz. of atta.
Meat, 6 oz.
Sim Sim oil, 1 oz.
Onions, $\frac{1}{2}$ oz.
Vegetables, 2 oz.
Salt, $\frac{1}{2}$ oz.
Condiment, $\frac{1}{8}$ oz.

5. Dietary for Indians and Arabs after the first three months of their imprisonment :—

The same as in the foregoing scale, except that at 12 NOON they are to receive 10 oz. of rice and 4 oz. of dhall.

N.B.—The *quantity of mtama* refers to the grain which has been deprived of its outer husk before being weighed.

The *quantity of rice* refers to dry rice before it is cooked, and not to rice after cooking.

46. Each prisoner should be weighed once a week and his weight entered in the Weighment Book. Should any serious falling-off in weight be observed, the attention of the Medical Officer should be directed to it.

Clothing and Cleanliness.

47. On admission, every prisoner shall be put into a prison suit and supplied with a blanket and metal number ticket. His private clothes, together with any property on his person, shall be made up into a bundle and returned to him when released, an inventory of the same being entered by the gaoler in a book kept for the purpose.

48. The prisoners shall wash their suits once a week at a time appointed by the gaoler, and shall bathe every evening after work.

49. The cells shall be swept every morning, and buckets cleaned and water jars filled with fresh water. The cells should be thoroughly ventilated by leaving the doors open in the day, and walls and roofs swept and whitewashed whenever necessary.

50. The night soil buckets shall be emptied every morning after the working gangs have left the prison.

51. A barber will visit the prison once a-week to shave the heads of prisoners. During the last month of imprisonment a prisoner's head shall not be shaved unless he so desires.

Admission of Prisoners.

52. (*a*.) Every prisoner on admission must be accompanied by a warrant stating his name, crime, and sentence.

(*b*). These particulars, together with a photograph of him (if procurable), and a statement of his nationality, probable age, weight, height, general appearance, identification marks, trade, residence, previous convictions, if any, and date of release shall be entered in a register kept for that purpose.

53. Every prisoner, male or female, shall be searched on admission by an officer of his or her own sex not in the presence of any other prisoner, and every prisoner shall be medically examined as soon as possible after admission.

Removal of Prisoners.

54. Prisoners on being sentenced, or during confinement, may be removed to any prison in the Protectorate, in accordance with any general or special orders to be made by the Commissioner.

55. Prisoners if sentenced to hard labour at a station at which there is no prison shall be removed as soon as possible to the prison specified in such general or special orders.

Discharge of Prisoners.

56. If the date of a prisoner's release falls on Sunday, Christmas Day, Good Friday, or any public festival, he shall be discharged on the previous day.

57. Prisoners discharged from a prison situate in a district to which they do not belong shall be returned at Government expense to their own district, or supplied with a sum of money sufficient to take them back.

58. With a view to preventing the repetition of crime when prisoners are discharged without friends or means of subsistence, it shall be in the discretion of the Superintendent to pay a gratuity not exceeding 3 rupees in deserving cases, and only

after full inquiry has been made. Should the Superintendent consider this sum insufficient, he must obtain authority in writing from the Commissioner or Sub-Commissioner before paying any higher gratuity.

Separation of Prisoners.

59. Male and female prisoners shall be kept separate from each other, and shall, if possible, be confined in separate buildings.

60. Juvenile prisoners (*i.e.*, under sixteen years of age) shall be kept separate from adults, and shall, if possible, not be confined in the same building.

61. The rooms or wards where a number of prisoners are confined shall be lighted at night, and be under the constant supervision of the prison officers.

62. No male officer shall enter or remain in a room in which female prisoners are confined unless accompanied by the Matron.

Classification of Convicted Prisoners.

63. Prisoners shall be divided into two classes, viz., short-term prisoners sentenced to six months and under, long-term prisoners whose sentences exceed six months.

64. Long-term prisoners shall receive a more generous diet, and by industry and good conduct may earn a remission of one-seventh of their sentence, *i.e.*, one day in each week. For the purpose of such remission, the gaoler shall report at the end of every week to the Superintendent as to the industry and conduct of each prisoner, and marks shall be granted by the Superintendent according to a system to be approved by the Commissioner. The prisoner shall be informed at the end of each week whether or not he has earned remission in respect of that week. Great care shall be taken by the principal officers of the prison to prevent any prisoner being prejudiced in earning remission by reason of the ill-will of any subordinate officer, or being unduly favoured in this matter contrary to his deserts.

65. It shall be in the power of the Commissioner to grant a further remission on very special grounds, such as exceptional merit or permanent ill-health.

66. Remission earned by marks cannot be cancelled otherwise than by loss of marks awarded as a punishment in manner hereinafter provided.

Punishment of Prisoners.

67. The punishments for misconduct shall be loss of marks, solitary confinement, penal diet, and in very serious cases corporal punishment. A prisoner shall not be subjected to any of these punishments (except loss of marks) until certified medically fit to undergo it.

68. No prisoner shall be punished until he has had an opportunity of hearing the charges and evidence against him, and of making his defence.

69. Where corporal punishment is awarded, the number of strokes shall be limited, in the case of adults, to twenty-four, with such instrument only as the Commissioner has approved, and in the case of juveniles, to twelve with a birch-rod.

70. Solitary confinement may or may not be combined with penal diet, but penal diet shall not be combined with hard labour, and shall not be given for more than three days continuously.

71. Irons may be employed by the Superintendent and the gaoler, but only as a temporary means of restraint, and only those shall be used of which the pattern has been approved by the Commissioner.

72.—(*a.*) The Superintendent shall have power to award punishment in respect of the offences following only, that is to say:—

(1.) Having prohibited articles in the cell.

(2.) Disobedience of the orders of the gaoler or other officer, or of the Regulations of the Prison by any prisoner.

(3.) Common assaults by one prisoner on another.

(4.) Cursing, swearing, or making unnecessary noise.

(5.) Indecent behaviour.

(6.) Insulting, threatening, or indecent language by any convict.

(7.) Idleness or negligence, or wilful mismanagement of work by any convicted prisoner.

(8.) Wilful injury or destruction of any tools or implements or materials of work, defacing or injuring the walls, furniture, or other property of the prison.

(*b.*) All the above acts are declared to be offences against prison discipline, and it shall be lawful for the Superintendent, after due inquiry, to punish any prisoner guilty of such offence by solitary confinement up to forty-eight hours, penal diet, loss of marks involving the cancellation of not more than seven days' remission, cellular or separate confinement up to three and seven days respectively.

(*c.*) The Superintendent shall enter in the Punishment Book a statement of the nature of any offence that he has punished in pursuance of this Regulation, with the amount of punishment awarded.

73. If any prisoner is charged with any serious offence or repeated offences against prison discipline which do not come under Regulation 72, a Visiting Justice shall hold an inquiry into the matter upon oath in the presence of the prisoner, and if he finds the charge proved may award any of the following punishments :—

(*a.*) Solitary confinement in a punishment cell, with or without penal diet, for a period not exceeding 28 days.

(*b.*) Loss of marks.

(*c.*) Corporal punishment.

Provided as follows :—

(1.) The solitary confinement shall not be continuous for more than seven days, and an interval of seven days shall elapse before a further period of such confinement.

(2.) Penal diet shall not be imposed for more than three days continuously, with an interval of one day before it is again imposed.

(3.) Corporal punishment shall not be awarded except for mutiny or incitement to mutiny, personal violence to any person, grossly offensive or abusive language, any act of gross misconduct or insubordination, or for repeated offences against prison discipline.

74. No prisoner shall, in consequence of misconduct while in prison, be detained in prison beyond the expiration of his term of sentence without being again brought before a Court of Law, and again sentenced. For this purpose a prisoner may, when necessary, be charged before any Magistrate of the first or second class with any offence against prison discipline, and such Magistrate shall have power to award a further sentence of imprisonment for a term not exceeding three months with or without hard labour, together with any such punishment as may, under these Regulations, be awarded by a Visiting Justice.

Punishment of Prison Officers.

75. Any warder or other subordinate officer may be punished by the Superintendent, with the approval of the Commissioner, for any of the following offences by a fine not exceeding 5 rupees for each offence :—

(1.) Disobedience of orders.

(2.) Untidiness in person or dress.

(3.) Neglect of duty.

(4.) Absence from duty without good cause.

(5.) Striking any prisoner, except in self-defence, or in defence of any other prison officer or prisoner.

Prisoners under Sentence of Death.

76. Prisoners under sentence of death shall be searched, and all articles likely to be dangerous shall be taken from them. They shall be confined apart from other prisoners in a special cell, and shall be under constant supervision by day and night.

77. Except on the written order of the Governor no one shall have access to them except the prison officers and the ministers of the religious denominations to which they belong.

78. Executions shall be attended by the Superintendent, the gaoler, and the Medical Officer, and may be attended by a minister of the religion to which the prisoner belongs.

Offences in Relation to Prisons.

79. Any person who brings, throws, or attempts by any means whatever to introduce into any prison or to give to any prisoner, any spirituous liquor, tobacco, or any intoxicating or poisonous drug, or any prison officer who permits the commission of any such offence shall, on conviction, be liable to imprisonment of either kind, which may extend to six months or to a fine not exceeding 300 rupees, or both.

80. Every gaoler or officer of a prison subordinate to him, who shall be guilty of any violation of duty, or wilful breach or neglect of any rule or regulation, or lawful order made by a competent authority, or who shall withdraw from the duties of his office without permission, or without having given two months' previous notice in writing of his intention to so withdraw, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to a fine not exceeding 200 rupees, or to imprisonment for a period not exceeding three months, or to both.

Miscellaneous.

81. In every prison a hospital or proper place for the reception of sick persons shall be provided.

82.—(*a.*) Whenever it appears to the visiting Justices and Medical Officer that the number of prisoners in any prison is greater than can be conveniently or safely kept therein, and it is not convenient to transfer the excess number to some other prison, or

(*b.*) Whenever, from the outbreak of epidemic disease within any prison or for any other reason it is desirable to provide for the temporary shelter and safe custody of any prisoners.

(*c.*) Provision shall be made as the Commissioner may direct for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

83. "The Prisons Regulations, 1897," are hereby repealed.

84. These Regulations may be cited as "The East Africa Prisons Regulations, 1902."

C. ELIOT,
His Majesty's Commissioner.

Mombasa, April 12, 1902.

Allowed:

LANSDOWNE,
His Majesty's Principal Secretary of State for Foreign Affairs.

East Africa Protectorate. 12 Apr. 1902. TS Selected Foreign Office Files on Africa. The National Archives (Kew, United Kingdom). Nineteenth Century Collections Online. Web. 2 May 2016.

URL
http://tinyurl.galegroup.com/tinyurl/3LffU3